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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,071	12/21/2000	Kazuo Ishii	Q62336	7426

7590 10/02/2002

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[REDACTED] EXAMINER

BROOKE, MICHAEL S

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2853

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No.	Applicant(s)	
	09/741,071	ISHII ET AL.	
	Examiner Michael S. Brooke	Art Unit 2853	
<b>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>			
<p>THE REPLY FILED 23 September 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.</p>			
<b><u>PERIOD FOR REPLY</u> [check either a) or b)]</b>			
<p>a) <input checked="" type="checkbox"/> The period for reply expires 4 months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p>			
<p>ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>			
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>			
<p>1. <input type="checkbox"/> A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.</p>			
<p>2. <input checked="" type="checkbox"/> The proposed amendment(s) will not be entered because:</p>			
<p>(a) <input type="checkbox"/> they raise new issues that would require further consideration and/or search (see NOTE below);</p>			
<p>(b) <input type="checkbox"/> they raise the issue of new matter (see Note below);</p>			
<p>(c) <input type="checkbox"/> they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p>			
<p>(d) <input checked="" type="checkbox"/> they present additional claims without canceling a corresponding number of finally rejected claims.</p>			
<p>NOTE: _____. </p>			
<p>3. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____. </p>			
<p>4. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p>			
<p>5. <input checked="" type="checkbox"/> The a)<input type="checkbox"/> affidavit, b)<input type="checkbox"/> exhibit, or c)<input checked="" type="checkbox"/> request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see attached</u>.</p>			
<p>6. <input type="checkbox"/> The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.</p>			
<p>7. <input checked="" type="checkbox"/> For purposes of Appeal, the proposed amendment(s) a)<input checked="" type="checkbox"/> will not be entered or b)<input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p>			
<p>The status of the claim(s) is (or will be) as follows:</p>			
<p>Claim(s) allowed: _____. </p>			
<p>Claim(s) objected to: _____. </p>			
<p>Claim(s) rejected: <u>1,3,6,9 and 10</u>. </p>			
<p>Claim(s) withdrawn from consideration: _____. </p>			
<p>8. <input type="checkbox"/> The proposed drawing correction filed on _____ is a)<input type="checkbox"/> approved or b)<input type="checkbox"/> disapproved by the Examiner.</p>			
<p>9. <input type="checkbox"/> Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____. </p>			
<p>10. <input type="checkbox"/> Other: _____. </p>			

***Response to Arguments***

1. Applicant's arguments filed 09/23/02 have been fully considered but they are not persuasive.
2. In response to applicant's argument that Tamura et al. and Higuchi et al. are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Tamura et al. teaches an ink jet printing apparatus using an oily ink. Higuchi et al. teaches an image forming apparatus which uses an oily ink for forming an image on a recording medium. Higuchi et al. further teaches that a fan is used for drying the ink on the recording medium. As both of these devices use an oily ink, the teachings of Higuchi et al., with regard to the drying of the ink, are seen to be relevant to Tamura et al.

Applicant's argument that Tamura et al. teaches away from the use of a fixing process is not persuasive. In support of this position, Applicant cites the statement that "since ink is caused to be attached directly to the recording sheet, neither developing nor fixing processes are necessary" (col. 1:10-14). However, Tamura et al. further teaches :

*"...which does not require complicated mechanisms for developing, fixing, and other steps as are necessary in the ordinary electrophotographic duplicator..."*  
(col. 23:35-42).

Given this teaching, it appears that the language of col. 1:10-14, is referring to the fact that ink jet printing eliminates the need for complicated fixing apparatuses, as are found in traditional electrophotographic devices. This does not preclude a simple fixing or drying device from being used with an ink jet head. Furthermore, the language "nor are fixing processes necessary," does not preclude the use of a fixing process. This language means that a fixing process is not necessary for the apparatus to function. A fixing or drying device could be added if it improved the operation of the printer, such as by increasing printing speed and/or reducing the drying time of the ink.

In support of this position, the Examiner has provided Smith (5,020,244) (col. 4:32-41), Takahashi et al. (5,502,464) (col. 20:45-47) and Richtsmeir et al. (col. 6:6-10). All of these references teach that it is well known in the ink jet art to use a fan to dry ink on a recording medium in an ink jet print head. Accordingly, one of ordinary skill in the inkjet art would have found it obvious to provide the printer of Tamura et al. with the drying apparatus of Higuchi et al, for drying the oily ink on the recording medium, in order to prevent smearing of the image.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael S. Brooke whose telephone number is 703-305-0262. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

Michael S. Brooke  
Examiner  
Art Unit 2853

*MSB*  
MSB

September 30, 2002

*John Barlow*  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800